

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William Moss	Team: Squad #6	CCRB Case #: 201907939	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 09/08/2019 9:20 AM	Location of Incident: 48th Precinct stationhouse	Precinct: 48	18 Mo. SOL 3/8/2021	EO SOL 10/23/2021	
Date/Time CV Reported Mon, 09/09/2019 11:34 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 09/09/2019 11:34 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Oliva Carvajal-Hernandez	20401	938182	048 PCT
2. SGT Eddie Rios	01483	948412	048 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Janice McClain	15138	961999	048 PCT
2. SGT Roger Rachelski	04551	942396	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Oliva Carvajal-Hernandez	Abuse: Police Officer Oliva Carvajal-Hernandez refused to provide her shield number to § 87(2)(b)	
B.SGT Eddie Rios	Discourtesy: Sergeant Eddie Rios spoke discourteously to § 87(2)(b)	
C.SGT Eddie Rios	Off. Language: Sergeant Eddie Rios made remarks to § 87(2)(b) based upon ethnicity.	

Case Summary

§ 87(2)(b) filed this complaint over the phone with the CCRB on September 9, 2019.

On September 8, 2019, at approximately 9:00 a.m., § 87(2)(b) went to the 48th Precinct stationhouse to file a complaint against the father of her children, who she believed violated an order of protection. § 87(2)(b) told two officers who stood by the front desk—PO Janice McClain and PO Olivia Carvajal-Hernandez—that the man called her and sent threatening texts. The officers did not believe those calls or texts violated the order. § 87(2)(b) allegedly asked for PO Carvajal-Hernandez’s shield number, and PO Carvajal-Hernandez allegedly refused to provide it (**Allegation A: Abuse of Authority** – § 87(2)(g)). Sgt. Eddie Rios approached the conversation and allegedly said to § 87(2)(b) “You come in here with your shit,” and, “Go take a walk, and don’t come back with your shit” (**Allegation B: Discourtesy** – § 87(2)(g)). Sgt. Rios also allegedly said, “These people come this country,” and, “Go back to your country” (**Allegation C: Offensive Language** – § 87(2)(g)). The officers did not arrest § 87(2)(b) or issue her any summonses.

The investigation obtained video footage of the incident from stationhouse cameras (**Board Review 1 and 2**).

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Olivia Carvajal-Hernandez refused to provide her shield number to § 87(2)(b)

The following facts are undisputed: § 87(2)(b) went to the 48th Precinct stationhouse to file a complaint against the father of her children and spoke with PO McClain and PO Carvajal-Hernandez. § 87(2)(b) told the officers that the man violated an order of protection when he called and sent her texts. PO McClain and PO Carvajal-Hernandez read the order, but neither thought the man’s actions violated it.

§ 87(2)(b) testified that she asked PO Carvajal-Hernandez for her shield number. § 87(2)(b) further alleged that PO Carvajal-Hernandez did not respond to the request and turned her body to hide her shield.

PO Carvajal-Hernandez did not recall if § 87(2)(b) asked for her shield number, nor did PO McClain or Sgt. Roger Rachelski, whom the stationhouse footage showed observed about one minute of the conversation. Sgt. Rios did not hear § 87(2)(b) ask for PO Carvajal-Hernandez’s shield number. These officers similarly either did not recall or hear if PO Carvajal-Hernandez verbally provided her shield number.

Stationhouse footage confirmed that although other officers and a civilian were present in the lobby during the incident, they did not watch the conversation or interject at any point. The footage furthermore did not capture PO Carvajal-Hernandez make any abrupt movements that appear intended to obscure her shield number. As the footage had no audio, it did not conclusively capture whether § 87(2)(b) asked for the shield number, nor whether PO Carvajal-Hernandez provided it.

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Discourtesy: Sergeant Eddie Rios spoke discourteously to § 87(2)(b)

Allegation C – Offensive Language: Sergeant Eddie Rios made remarks to § 87(2)(b) based upon ethnicity.

It is undisputed that Sgt. Rios walked up to § 87(2)(b)'s discussion with PO McClain and PO Carvajal-Hernandez. It is also undisputed that Sgt. Rios read the order of protection, and, after a few moments of conversation, told § 87(2)(b) that she needed to leave the stationhouse.

§ 87(2)(b) alleged that when Sgt. Rios approached her, he said, “You come in here with your shit.” She also testified that when Sgt. Rios told her to leave the stationhouse, he said, “Go take a walk, and don’t come back here with your shit.”

PO McClain, PO Carvajal-Hernandez, and Sgt. Rios did not remember if Sgt. Rios said the word “shit” generally or the phrase “you come in here with your shit” more specifically. Although PO McClain and PO Carvajal-Hernandez similarly did not recall if Sgt. Rios said, “Don’t come back here with your shit,” Sgt. Rios refuted that he said that phrase. Sgt. Rachelski testified that Sgt. Rios never said the word “shit,” but he also testified that he remembered nothing about the incident or even the day in question.

§ 87(2)(b) further testified that after Sgt. Rios told her to leave, he walked away and said, “These people come to this country ...” In response, § 87(2)(b) said, “Excuse me?” and Sgt. Rios stated, “You heard me. Go back to your country.”

PO McClain and PO Carvajal-Hernandez did not recall Sgt. Rios make either of those comments. Sgt. Rios said he did not say, “These people come to this country,” “Go back to your country,” or any other remark about § 87(2)(b)'s ethnicity or country of origin. Sgt. Rachelski also refuted that Sgt. Rios made any of those comments, but, as previously mentioned, Sgt. Rachelski remembered nothing about the incident.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- There are no relevant patterns in § 87(2)(b)'s CCRB history. § 87(2)(b) (Board Review 3).
- Sgt. Rios has been a subject officer in four other cases with a total of eight allegations. He is alleged to have used discourteous language in one other CCRB case, #201504399. The Board disposition in that case was unsubstantiated.
- PO Carvajal-Hernandez has been a subject officer in five other cases with a total of five allegations. She was a subject officer in one other CCRB complaint involving a refusal to provide shield number,

case #200810322. The CCRB Board substantiated that allegation, and the Police Department imposed a penalty of Command Discipline B. PO Carvajal-Hernandez also received Command Discipline B for discourteous language in another complaint, case #200910434.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- According to the Office of Court Administration, § 87(2)(b) has no criminal conviction history in New York City. (**Board Review 4**).
- The investigation has requested but not yet received records from the New York City Office of the Comptroller related to Notice of Claims filed by § 87(2)(b)

Squad No.: _____

Investigator: _____

Signature _____ Print Title & Name _____ Date _____

Squad Leader: _____

Signature _____ Print Title & Name _____ Date _____

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____